

REMARKS

Reconsideration and withdrawal of the restriction requirement and election of species are respectfully requested in view of the remarks herewith.

The July 15, 2008 Office Action called for a restriction to one of the following inventions as required under 35 U.S.C. § 121:

- I. Claims 1-2, 6 and 11 in part, drawn to a compound of formula (I), wherein W = N.
- II. Claims 1-2, 6 and 11 in part, and 3-4, and 14-17 drawn to a compound of formula (I), wherein W = C-halogen.
- III. Claim 5 in part, drawn to a process for the preparation of a compound of formula (I), wherein W = N.
- IV. Claim 5 in part, drawn to a process for the preparation of a compound of formula (I), wherein W = C-halogen.
- V. Claims 9-10 and 12-13 in part, drawn to a method of controlling pests with a compound of formula (I), wherein a compound of formula (I), wherein W = N.
- VI. Claim 9-10 and 12-13 in part, drawn to a method of controlling pests with a compound of formula (I), wherein W = C-halogen.

Applicant elects, **with traverse, Group VI**, claims 9-10 and 12-13 in part, drawn to a method of controlling pests with a compound of formula (I), wherein W = C-halogen.

Applicants reserve the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

As a traverse, it is noted that the MPEP lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct. MPEP § 803. Second, searching the additional inventions must constitute an undue burden on the examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made without serious burden, ...even though it includes claims to distinct or independent inventions.” *Id.*

The Office Action states that the inventions listed in Groups I-VI do not relate to a single inventive concept under PCT Rule 13.1, because under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reasons:

The common technical feature linking the claims is 5-substituted alkylaminopyrazole derivatives of formula (I). This element cannot be a special technical feature under PCT rule 13.2 because the core structure linking the claims is shown in the prior art.

The inventive concept linking the claims relative to the cited reference relates to the unexpected activity of the instantly claimed compounds, which relate to the aryl pyrazole substructures, with respect to insecticidal properties, and particularly with respect to efficacy at low dosages. Thus, the common technical feature linking the claims is unique.

CONCLUSION

In view of the remarks herein, reconsideration and withdrawal of the restriction requirement are requested.

Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

No fee is believed to be due. The Commissioner is authorized to charge any fee occasioned by this paper, or credit any overpayment in fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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